IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 05.01.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

Writ Petition No.47493 of 2006
& M.P. No.1 of 2006

Mr.C.V.Balasubramane .. Petitioner

Vs.

1.The Commissioner,
Chennai Corporation,
Ripon Buildings,
Chennai-3.

2.The Member-Secretary,
Chennai Metropolitan Development Authority,
Thaalamuthu Natarajan Buildings,
Gandhi-Irwin Road, Egmore,
Chennai-600 008.

3.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-2.

4. The Chairman and Managing Director,
Chennai Metropolitan Water Supply &
Sewerage Board,Chindathiripet,
Chennai-600 002.

5.M.N.Chandrasekaran .. Respondents

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Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus as stated therein.

For Petitioner : Mr.T.Karunakaran
For 1st Respondent : Mr.V.Bharathidasan

For 2nd respondent : Mr.J.Ravindran

For 5th respondent : Mr.R.Muthukumarasamy, S.C., for Mr.C.Ravichandran

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ORDER

(Order of the Court was delivered by P. SATHASIVAM, J.)

The petitioner has filed this writ petition to issue a Writ of Mandamus directing respondents 1 and 2-the Commissioner, Chennai Corporation and the Member Secretary, CMDA, to demolish the unauthorised construction put up by the fifth respondent at door No.140, Amman Koil Street, Peddunaikkanpet, George Town, Chennai-600 079 and Corporation Division No.43, Zone No.3.

2. Pursuant to the direction of this Court, the fifth respondent has filed a counter affidavit, wherein it is stated that the petitioner has already filed the civil suit in O.S.No.2217 of 2006 on the file of XIII Assistant Judge, City Civil Court, Chennai, against him and the same is pending as on date. Coming to the allegations made, the fifth respondent has stated that his vendors demolished the then existing superstructure consisting of ground + 2 floors after obtaining permission dated 05.12.2005 from the first respondent-Corporation of Chennai. According to him, only after demolition, his vendors sold the property in question, which is a vacant land under the sale deed dated 20.01.2006. It is further stated that he started to put up superstructure only after obtaining planning permission from the first respondent viz., permission dated 28.03.2006 for ground + first floor. According to the fifth respondent, after getting necessary finance, he put up ground + 4 floors in the suit property and submitted a revised plan to the second respondent on 22.12.2006 for ground + 4 floors, which according to him is still pending and the same is likely to be approved.

3. In view of the fact that the fifth respondent had obtained the planning permission for ground + first floor and in respect of ground + 4 floors, he submitted a revised plan to the second respondent on 22.12.2006, we are of the view that it is for the second respondent to pass appropriate orders in respect of his request. Accordingly, direction is issued to the second respondent to consider and dispose of the revised plan submitted on 22.12.2006 for ground + 4 floors in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. Depending on the order to be passed by the second respondent, the concerned authority to proceed further, if the same is warranted. It is made clear that if there is any deviation in respect of ground + first floor, it is for the first respondent viz., Corporation of Chennai, to proceed in accordance with law.

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4. With the above direction, the writ petition is disposed of. No costs. Consequently, M.P.No.1 of 2006 is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Commissioner,
Chennai Corporation,
Ripon Buildings, Chennai-3.

2.The Member-Secretary,
Chennai Metropolitan Development Authority,
Thaalamuthu Natarajan Buildings,
Gandhi-Irwin Road, Egmore,
Chennai-600 008.

3.The Chairman,Tamil Nadu Electricity Board,
Anna Salai, Chennai-2.

4. The Chairman and Managing Director,
Chennai Metropolitan Water Supply &
Sewerage Board,Chindathiripet,
Chennai-600 002.

+1cc to Mr.T.Karunakaran,Advocate SR 1162
+2ccs to Mr.J.Ravindran, Advocate Sr 1452,1447
+1cc to Mr.V.Bharathidasan, Advocate SR 1288
+1cc to Mr.C.Ravindran, Advocate Sr 1064

PPV (CO)
km/12.1.

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